

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

BENJAMIN WAGNER,

Plaintiff,

v.

DOUG WORSHAM,

Defendant.

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No. 4:15CV1362 CDP

**MEMORANDUM AND ORDER**

Before the Court is plaintiff's motion for waiver of the initial partial filing fee of \$12.60. In support of his motion, plaintiff claims that his only source of funds is the \$8.50 provided to Missouri prisoners from the Missouri Department of Corrections.<sup>1</sup>

In support of his motion, plaintiff has submitted a prison account statement, dated July 1, 2015 through January 20, 2016.

The Prison Litigation Reform Act, 28 U.S.C. § 1915(b), states:

The court shall assess and, when funds exist, collect, as a partial payment of any court fees required by law, an initial partial filing fee of 20 percent of the greater of- (A) the average monthly deposits to the prisoner's account; or (B) the average monthly balance in the prisoner's account for the 6-month period immediately preceding the filing of the complaint or notice of appeal.

As plaintiff's account balance is only \$.50, the Court will not insist that he pay the \$12.60 initial partial filing fee at this time. *See* 28 U.S.C. § 1915(b)(4) (noting that the initial payment may not be exacted if the prisoner has no means to pay it).

Instead, the Court will contact the Missouri Department of Corrections directly and require the Department to deduct from plaintiff's account a partial payment of this Court's fees

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<sup>1</sup>The Court notes that it also appears that plaintiff is employed at a State job, whether as a tutor/facilitator or a food handler, for which he is also paid.

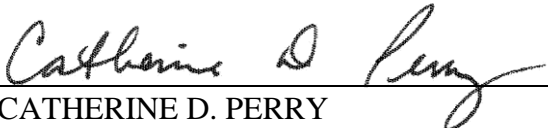
anytime his balance exceeds more than \$10.00 in his account. *See* 28 U.S.C. § 1915(b)(2) (requiring the agency having custody of the prisoner to forward payments from the prisoner's account to the clerk of the court each time the amount in the account exceeds \$10 until the filing fees are paid).

Accordingly,

**IT IS HEREBY ORDERED** that plaintiff's motion to waive the initial partial filing fee of \$12.60 [14] is **GRANTED**.

**IT IS FURTHER ORDERED** that in accordance with 28 U.S.C. § 1915(b)(2), the Clerk shall request the Missouri Department of Corrections to forward to the Court payments from plaintiff's prison account until the District Court's filing fee is paid in full.

Dated this 4th day of February, 2016.

  
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CATHERINE D. PERRY  
UNITED STATES DISTRICT JUDGE